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## LABOUR & EMPLOYMENT DEPARTMENT

### NOTIFICATION

The 17th May 2010

No. 4066-li-1(B)-57/2007-L.E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 9th December 2009 in Industrial Disputes Case No. 2 of 2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the Industrial Dispute between the Management of M/s. Havell's India Ltd., Bhubaneswar and their Workman Shri Bidyut Ranjan Chau Pattnaik of Bhubaneswar was referred to for adjudication is hereby published as in the Schedule below :

### SCHEDULE

INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 2 OF 2008

Dated the 9th December 2009

Present :

Shri P. C. Mishra, O.S.J.S. (Sr. Branch),  
Presiding Officer, Industrial Tribunal,  
Bhubaneswar.

Between :

The Senior Branch Manager, M/s. Havell's India Ltd., Bhubaneswar Plot No. 168-169A, KAC House, Bapujinagar, Bhubaneswar.	.. First-party Management
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And

Shri Bidyut Ranjan Chau Pattnaik, Qrs. No. G-17, R.B.I. Colony, Unit-IV, Bidyut Marg, Bhubaneswar-751001.	.. Second-party Workman
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## Appearances :

Shri Somanath Baral, Authorised Representative.	.. For First-party Management
Shri Bidyut Ranjan Chau Pattnaik	.. For Second-party Workman himself

## AWARD

The Government of Orissa in the Labour & Employment Department in exercise of powers conferred upon them by sub-section (5) of Section 12, read with Clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), have referred the following dispute for adjudication vide their Order No. 1087-li/1(B)-57/2007-L.E., dated the 31st January 2008 :

“Whether the action of the Management of M/s. Havell’s India Ltd., Bhubaneswar (Employer) in accepting the resignation of Shri B. R. Chau Pattnaik, workman with effect from dated 2-1-2006 and not considering the subsequent withdrawal petition, dated 4-1-2006 of Shri Chau Pattnaik is legal and/or justified ? If not, what relief Shri Chau Pattnaik is entitled to ?”

2. The case of the workman in brief is that on being selected by the management he worked under it as Sales Executive with effect from 25-2-2005 and subsequently he was issued with an order of appointment by the Company on 7-3-2005. It is alleged that while working as such during the last part of December, 2005 the Senior Branch Manager Mr. M. K. Agarwal started behaving with him in objectionable/filthy language like that of a domestic servant in presence of other staff and as a result of such mental torture he was forced to quit the job on 2-1-2006, but at a later stage, i.e. on 4-1-2006 he made a representation to the management for withdrawal of the same. It is alleged that the management without considering his representation, dated 4-1-2006 accepted his resignation dated 2-1-2006. According to the workman, his letter of resignation dated 2-1-2006 having not been accepted by the competent authority and the same having not been communicated to him, the action of the management is not only illegal but also unjustified.

3. Resisting the claim, the management filed written statement stating therein *inter alia* that the case is not maintainable, in as much as, the second party is not a ‘workman’ within the meaning of Sec.2 (s) of the I. D. Act and the matter referred for adjudication is not an ‘Industrial Dispute’ as defined u/s 2 (k) of the said Act for which this Tribunal lacks jurisdiction to adjudicate the present reference. It is the specific stand of the management that on 2-1-2006 the letter of resignation tendered by the workman was accepted and the fact of such acceptance was also intimated to the workman over phone by the Senior Branch Manager, who was at Delhi on the relevant date and subsequently the workman was informed by a letter sent to him by Registered Post. It is stated that the authority to whom the workman submitted his resignation having accepted the same, no illegality can be attributable to the action of the management. According to the management, the resignation of the workman after being accepted by the management there remains nothing to be agitated by the claimant and further owing to the claimant’s serving in another Company namely, M/s. Accenture Services Pvt. Ltd., Bangalore, with effect from 14-2-2007, he is not at all entitled to any relief in the present proceeding.

4. On the basis of the pleadings of the parties, the following issue has been framed by this Tribunal for adjudication :-

### ISSUE

- (1) "Whether the action of the management of M/s. Havell's India Ltd., Bhubaneswar (Employer) in accepting the resignation of Shri B. R. Chau Pattnaik, workman with effect from 2-1-2006 and not considering the subsequent withdrawal petition, dated 4-1-2006 of Shri Chau Pattnaik is legal and/or justified ? if not, what relief Shri Chau Pattnaik is entitled to ?"

5. In order to substantiate his plea, the workman examined himself and filed and proved documents which have been marked as Exts. 1 to 5. The management, on the other hand, examined its Asst. General Manager, who at the relevant time was functioning as the Sr. Branch Manager and brought on record documents which have been marked as Exts. A to D.

6. It is the undisputed fact that the workman having been employed by the management as Sales Executive continued as such under it till 1-1-2006 with the salary and perks as mentioned in his order of appointment, Ext. 1. It is the specific grievance of the workman that on account of harassment and mental torture he tendered resignation on 2-1-2006 and in spite of his filing a representation on 4-1-2006 to withdraw the same, his prayer was not acceded to. The copy of the resignation letter, dated 2-1-2006 has been proved by the management as Ext. A and for better appreciation the contents thereof are reproduced below :

"To

The Sr. Branch Manager.  
HAVELL'S INDIA LTD.,  
Bhubaneswar.

Sub.—Resignation from job.

Sir,

I would like to put my papers for resigning from job henceforth for my personal reason. I would request you to clear all my pending dues and issue a no dues and experience certificate.

Thanking you,

BIDYUT RANJAN CHAU PATTNAIK"

Dated 2-1-2006

A scrutiny of Ext. A does not indicate the alleged harassment and mental torture, if any, shown to the workman. Besides his sole testimony no other independent witness has also been examined to substantiate the plea of the workman that he was compelled to resign from the Company's job. Rather, Ext. A discloses that for his personal problem, the workman tendered his resignation with a request to the authority to clear his pending dues and to grant him an experience certificate, obviously with a motive to serve elsewhere. The circumstance, therefore, does not show any coercion to have been made upon the workman to resign from the Company's job. The allegation of high handedness of the authority behind submission of such resignation by the workman therefore, has no leg to stand.

Similarly, the other ground of attack of the workman that in view of his appointment by the Head of the Company, the Senior Branch Manager was incompetent to take any action on his letter of resignation is not tenable in view of the letter of authorisation issued in favour of the Senior Branch Manager by the Director of the Company on 1-11-2005 delegating him the power to accept resignation of an employee, the copy of which has been marked in the proceeding as Ext. D. Irrespective of the circumstances narrated above the fact remains to be examined here is that whether the resignation of the workman was accepted by said Shri Agarwal, the delegated authority or not.

On a scrutiny of Ext. 4, the copy of the resignation acceptance letter, read with the evidence of M. W. No. 1, it reveals that the resignation of the workman was accepted by one Shri D. K. Pathak. M. W. No. 1 though stated in his evidence that said Shri Pathak was authorised to act on his behalf, but no documentary evidence is forthcoming to corroborate his version. It is mentioned in Ext. 4 that the resignation of the workman has been accepted and he would be released from the Company's job with effect from 9-1-2006. In view of the stipulation in Ext. 4 it is hard to construe that the jural relationship between the parties did not subsist till 9-1-2006. Further, M.W. No. 1 admitted in his evidence that by way of a Fax message the workman had sent a letter, dated 4-1-2006 (Ext. 2) showing his intention to withdraw the resignation, Ext. A. On the aforesaid aspect, the management has led no evidence as to what happened to the representation of the workman, Ext. 2 when there existed employer-employee relationship between the parties till 9-1-2006.

7. Referring to the Attendance Register, Ext. 5, it was next contended by the management that after tendering resignation the workman did not turn-up and therefore, he was marked absent in Ext. 5 which clearly discloses his intention to quit the job. The Attendance Register on which much emphasis has been given by the management shows that the relevant page of it, i.e. for the month of January 2006 has been manipulated, in as much as, the serial number put in the Attendance Register for the month of January, 2006 has not been maintained in sequence and further the said page has been inserted subsequently only with a view to show that the workman did not turn-up to the Company after submitting his resignation. The lapses, as noted above, cast a shadow on the conduct of the management and consequently renders its plea unbelievable.

8. On the face of the legal infirmities as discussed in the preceding paragraphs, the action of the management in accepting the resignation of the workman cannot be said to be either legal or justified. Similarly, the non-consideration of the petition, dated 4-1-2006 submitted by the workman seeking withdrawal of his resignation is also illegal and unjustified owing to the fact that there existed employer-employee relationship between the parties on the date of submission of such petition by the workman.

9. In view of my finding that the action of the management is not sustainable in the eye of law, normally the workman is entitled to reinstatement, but in view of the fact that the resignation tendered was a voluntary act on the part of the workman I am not inclined to grant the relief of reinstatement in favour of the workman. As regards back wages it being the admitted fact that soon after resigning, the workman had joined another organisation, it would be appropriate to Award a compensation to the tune of Rs. 20,000 in favour of the workman in lieu of back wages taking into consideration the

fact that he had rendered more than ten months service under the management. Accordingly, the management is directed to pay a lump sum amount of Rs. 20,000 (Rupees twenty thousand) only to the workman within a period of two months hence.

The reference is answered accordingly.

Dictated and corrected by me.

P. C. MISHRA

9-12-2009

Presiding Officer

Industrial Tribunal

Bhubaneswar

P. C. MISHRA

9-12-2009

Presiding Officer

Industrial Tribunal

Bhubaneswar

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By order of the Governor

K. C. BASKE

Under-Secretary to Government